



Reprinted
April 14, 2009

ENGROSSED SENATE BILL No. 89

DIGEST OF SB 89 (Updated April 13, 2009 6:02 pm - DI 104)

Citations Affected: IC 12-7; IC 12-15; IC 12-16; IC 16-34; noncode.

Synopsis: Health matters. Establishes the breast and cervical cancer screening services program (program) and establishes eligibility in and reimbursement for the program. Appropriates money from the Indiana check-up plan trust fund for specified payments under the program. Requires specified health care professionals to orally inform a pregnant woman before an abortion is performed that the fetus might feel pain. Requires a health care provider licensed by the state who performs a surgical procedure to: (1) have admitting privileges at a hospital in the county or in a county adjacent to the county where the surgical procedure is performed; and (2) notify the patient of the hospital location where the patient can receive follow-up care by the health care provider.

Effective: July 1, 2009.

Miller, Leising, Mrvan, Kruse, Hume
(HOUSE SPONSORS — CHEATHAM, BELL)

January 7, 2009, read first time and referred to Committee on Health and Provider Services.

February 5, 2009, reported favorably — Do Pass.

February 9, 2009, read second time, ordered engrossed.

February 10, 2009, engrossed. Read third time, passed. Yeas 44, nays 6.

HOUSE ACTION

February 25, 2009, read first time and referred to Committee on Public Policy.

April 9, 2009, reported — Do Pass.

April 13, 2009, read second time, amended, ordered engrossed.

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Reprinted
April 14, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 89

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-23.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 23.4. "Breast cancer diagnostic service", for purposes**
4 **of IC 12-16-18, has the meaning set forth in IC 12-16-18-1.**
5 SECTION 2. IC 12-7-2-23.6 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2009]: **Sec. 23.6. "Breast cancer screening mammography", for**
8 **purposes of IC 12-16-18, has the meaning set forth in**
9 **IC 12-16-18-2.**
10 SECTION 3. IC 12-15-44.2-17, AS ADDED BY P.L.3-2008,
11 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2009]: Sec. 17. (a) The Indiana check-up plan trust fund is
13 established for the following purposes:
14 (1) Administering a plan created by the general assembly to
15 provide health insurance coverage for low income residents of
16 Indiana under this chapter.
17 (2) Providing copayments, preventative care services, and

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premiums for individuals enrolled in the plan.

(3) Funding tobacco use prevention and cessation programs, childhood immunization programs, and other health care initiatives designed to promote the general health and well being of Indiana residents.

(4) Providing payment for health care providers who provide screening service for breast and cervical cancer to uninsured women under IC 12-16-18.

The fund is separate from the state general fund.

(b) The fund shall be administered by the office of the secretary of family and social services.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund shall consist of the following:

(1) Cigarette tax revenues designated by the general assembly to be part of the fund.

(2) Other funds designated by the general assembly to be part of the fund.

(3) Federal funds available for the purposes of the fund.

(4) Gifts or donations to the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money must be appropriated before funds are available for use.

(g) Money in the fund does not revert to the state general fund at the end of any fiscal year.

(h) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

SECTION 4. IC 12-16-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 18. Breast and Cervical Cancer Screening Services Program

Sec. 1. As used in this chapter, "breast cancer diagnostic service" means a procedure intended to aid in the diagnosis of breast cancer. The term includes procedures performed on an inpatient basis and procedures performed on an outpatient basis, including the following:

(1) Breast cancer screening mammography.

(2) Surgical breast biopsy.

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(3) Pathologic examination and interpretation.

Sec. 2. As used in this chapter, "breast cancer screening mammography" means a standard, two (2) view per breast, low dose radiographic examination of the breasts that is:

- (1) furnished to an asymptomatic woman; and**
- (2) performed by a mammography services provider using equipment designed by the manufacturer for and dedicated specifically to mammography in order to detect unsuspected breast cancer.**

The term includes the interpretation of the results of a breast cancer screening mammography by a physician.

Sec. 3. (a) The breast and cervical cancer screening services program is established.

(b) The office of the secretary shall administer the program.

Sec. 4. A woman who:

- (1) is at least thirty-five (35) years of age; and**
- (2) does not have a public or private third party payment source;**

is eligible to participate in the program.

Sec. 5. (a) An individual or facility health care provider that is either:

(1) a mammography services provider that:

- (A) has been accredited by the American College of Radiology;**
- (B) meets equivalent guidelines established by the state department of health; or**
- (C) is certified by the federal Department of Health and Human Services for participation in the Medicare program (42 U.S.C. 1395 et seq.); or**

(2) a provider of screening tests to detect cervical cancer; is qualified to receive reimbursement for breast cancer diagnostic services, breast cancer screening mammographies, and cervical cancer screening services provided to an individual described in section 4 of this chapter.

(b) The office shall reimburse a provider described in subsection (a) at the federal Medicare reimbursement rate from the Indiana check-up plan trust fund.

Sec. 6. The office of the secretary may adopt rules under IC 4-22-2 necessary to administer this chapter.

SECTION 5. IC 16-34-2-1.1, AS AMENDED BY P.L.146-2008, SECTION 444, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.1. (a) An abortion shall not be

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performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed the pregnant woman of the following:

(A) The name of the physician performing the abortion.

(B) The nature of the proposed procedure or treatment.

(C) The risks of and alternatives to the procedure or treatment.

(D) The probable gestational age of the fetus, including an offer to provide:

(i) a picture or drawing of a fetus;

(ii) the dimensions of a fetus; and

(iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(E) The medical risks associated with carrying the fetus to term.

(F) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(G) That the fetus might feel pain.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be orally informed of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the local office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(3) The pregnant woman certifies in writing, before the abortion

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is performed, that the information required by subdivisions (1) and (2) has been provided.

(b) Before an abortion is performed, the pregnant woman may, upon the pregnant woman's request, view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible.

SECTION 6. IC 16-34-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) A health care provider licensed by the state may not perform a surgical procedure unless the health care provider licensed by the state has admitting privileges at a hospital located:**

(1) in the county; or

(2) in a county adjacent to the county;

in which the surgical procedure is performed.

(b) A health care provider licensed by the state who performs a surgical procedure shall notify the patient of the location of the hospital at which the health care provider licensed by the state has privileges and where the patient may receive follow-up care by the health care provider licensed by the state if complications arise.

(c) This section does not apply to surgical procedures performed by dentists licensed under IC 25-14.

SECTION 7. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "fund" refers to the Indiana check-up plan trust fund.**

(b) There is appropriated to the fund an amount sufficient for the office of the secretary of family and social services to reimburse health care providers who provide screening service for breast and cervical cancer to uninsured women under IC 12-16-18, as added by this act, from the cigarette tax revenues designated by the general assembly to be part of the fund for the state fiscal year beginning July 1, 2009, and ending June 30, 2010.

(c) There is appropriated to the fund an amount sufficient for the office of the secretary of family and social services to reimburse health care providers who provide screening service for breast and cervical cancer to uninsured women under IC 12-16-18, as added by this act, from the cigarette tax revenues designated by the general assembly to be part of the fund for the state fiscal year beginning July 1, 2010, and ending June 30, 2011.

(d) This SECTION expires December 31, 2011.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 89, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 89 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 5, Nays 4.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 89, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

VAN HAAFTEN, Chair

Committee Vote: yeas 8, nays 4.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 89 be amended to read as follows:

Page 1, line 3, delete "physician" and insert "**health care provider licensed by the state**".

Page 1, line 3, delete "an abortion" and insert "**a surgical procedure**".

Page 1, line 4, delete "physician" and insert "**health care provider licensed by the state**".

Page 1, line 7, delete "abortion" and insert "**surgical procedure**".

Page 1, line 8 delete "physician" and insert "**health care provider licensed by the state**".

Page 1, line 8, delete "an abortion" and insert "**a surgical procedure**".

Page 1, line 9, delete "physician" and insert "**health care provider licensed by the state**".

Page 1, line 11, delete "physician" and insert "**health care provider**".

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licensed by the state".

Page 1, after line 11, begin a new paragraph and insert:

"(c) This section does not apply to surgical procedures performed by dentists licensed under IC 25-14."

(Reference is to SB 89 as printed April 10, 2009.)

CHEATHAM

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 89 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-34-2-1.1, AS AMENDED BY P.L.146-2008, SECTION 444, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed the pregnant woman of the following:

- (A) The name of the physician performing the abortion.
- (B) The nature of the proposed procedure or treatment.
- (C) The risks of and alternatives to the procedure or treatment.
- (D) The probable gestational age of the fetus, including an offer to provide:
 - (i) a picture or drawing of a fetus;
 - (ii) the dimensions of a fetus; and
 - (iii) relevant information on the potential survival of an unborn fetus;
 at this stage of development.
- (E) The medical risks associated with carrying the fetus to

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term.

(F) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(G) That the fetus might feel pain.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be orally informed of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the local office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(3) The pregnant woman certifies in writing, before the abortion is performed, that the information required by subdivisions (1) and (2) has been provided.

(b) Before an abortion is performed, the pregnant woman may, upon the pregnant woman's request, view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible."

Renumber all SECTIONS consecutively.

(Reference is to ESB 89 as printed April 10, 2009.)

BROWN T

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 89 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-7-2-23.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.4. "Breast cancer diagnostic**

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service", for purposes of IC 12-16-18, has the meaning set forth in IC 12-16-18-1.

SECTION 2. IC 12-7-2-23.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.6. "Breast cancer screening mammography", for purposes of IC 12-16-18, has the meaning set forth in IC 12-16-18-2.**

SECTION 3. IC 12-15-44.2-17, AS ADDED BY P.L.3-2008, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17. (a) The Indiana check-up plan trust fund is established for the following purposes:**

- (1) Administering a plan created by the general assembly to provide health insurance coverage for low income residents of Indiana under this chapter.
- (2) Providing copayments, preventative care services, and premiums for individuals enrolled in the plan.
- (3) Funding tobacco use prevention and cessation programs, childhood immunization programs, and other health care initiatives designed to promote the general health and well being of Indiana residents.
- (4) Providing payment for health care providers who provide screening service for breast and cervical cancer to uninsured women under IC 12-16-18.**

The fund is separate from the state general fund.

(b) The fund shall be administered by the office of the secretary of family and social services.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund shall consist of the following:

- (1) Cigarette tax revenues designated by the general assembly to be part of the fund.
- (2) Other funds designated by the general assembly to be part of the fund.
- (3) Federal funds available for the purposes of the fund.
- (4) Gifts or donations to the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money must be appropriated before funds are available for use.

(g) Money in the fund does not revert to the state general fund at the end of any fiscal year.

(h) The fund is considered a trust fund for purposes of IC 4-9.1-1-7.



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Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

SECTION 4. IC 12-16-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 18. Breast and Cervical Cancer Screening Services Program

Sec. 1. As used in this chapter, "breast cancer diagnostic service" means a procedure intended to aid in the diagnosis of breast cancer. The term includes procedures performed on an inpatient basis and procedures performed on an outpatient basis, including the following:

- (1) Breast cancer screening mammography.
- (2) Surgical breast biopsy.
- (3) Pathologic examination and interpretation.

Sec. 2. As used in this chapter, "breast cancer screening mammography" means a standard, two (2) view per breast, low dose radiographic examination of the breasts that is:

- (1) furnished to an asymptomatic woman; and
- (2) performed by a mammography services provider using equipment designed by the manufacturer for and dedicated specifically to mammography in order to detect unsuspected breast cancer.

The term includes the interpretation of the results of a breast cancer screening mammography by a physician.

Sec. 3. (a) The breast and cervical cancer screening services program is established.

(b) The office of the secretary shall administer the program.

Sec. 4. A woman who:

- (1) is at least thirty-five (35) years of age; and
- (2) does not have a public or private third party payment source;

is eligible to participate in the program.

Sec. 5. (a) An individual or facility health care provider that is either:

- (1) a mammography services provider that:
 - (A) has been accredited by the American College of Radiology;
 - (B) meets equivalent guidelines established by the state department of health; or
 - (C) is certified by the federal Department of Health and

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Human Services for participation in the Medicare program (42 U.S.C. 1395 et seq.); or

(2) a provider of screening tests to detect cervical cancer; is qualified to receive reimbursement for breast cancer diagnostic services, breast cancer screening mammographies, and cervical cancer screening services provided to an individual described in section 4 of this chapter.

(b) The office shall reimburse a provider described in subsection (a) at the federal Medicare reimbursement rate from the Indiana check-up plan trust fund.

Sec. 6. The office of the secretary may adopt rules under IC 4-22-2 necessary to administer this chapter."

Page 1, after line 11, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "fund" refers to the Indiana check-up plan trust fund.

(b) There is appropriated to the fund an amount sufficient for the office of the secretary of family and social services to reimburse health care providers who provide screening service for breast and cervical cancer to uninsured women under IC 12-16-18, as added by this act, from the cigarette tax revenues designated by the general assembly to be part of the fund for the state fiscal year beginning July 1, 2009, and ending June 30, 2010.

(c) There is appropriated to the fund an amount sufficient for the office of the secretary of family and social services to reimburse health care providers who provide screening service for breast and cervical cancer to uninsured women under IC 12-16-18, as added by this act, from the cigarette tax revenues designated by the general assembly to be part of the fund for the state fiscal year beginning July 1, 2010, and ending June 30, 2011.

(d) This SECTION expires December 31, 2011."

Re-number all SECTIONS consecutively.

(Reference is to ESB 89 as printed April 10, 2009.)

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